



Department of Justice

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JUSTICE DEPARTMENT ISSUES BUSINESS REVIEW LETTER ON CLEVELAND AREA HOSPITALS

WASHINGTON, D.C. -- The Department of Justice announced today that it does not intend to challenge under the antitrust laws a proposal by Case Western Reserve University School of Medicine (Case Western) and University Hospitals of Cleveland (UHC) to use a single agent to negotiate contract terms and fees with third-party payers on behalf of the nineteen separate physician practice groups that provide medical care at UHC.

The Department's position was set forth in a business review letter from J. Mark Gidley, Acting Assistant Attorney General in charge of the Antitrust Division, to Gregory G. Binford, counsel for UHC, a teaching hospital affiliated with Case Western.

Under the proposal, UHC would designate a single agent to negotiate with third-party payers on behalf of all the physicians who are organized into different practice groups according to medical specialties. Each practice group would provide the agent with a list of medical procedures and related ranges of prices for negotiating fees for each procedure.

Third-party payers would be advised that they would be free to conduct negotiations directly with any practice group. Each practice group, similarly, would be free to conduct negotiations

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directly with a third-party payer. If the negotiations proceeded through the agent, each practice group still would be free to accept or reject the agent-negotiated contract. If any group rejected the negotiated contract, that practice group could renegotiate or decide not to contract. Any contract entered into for a practice group would be independent from any other practice group's contract.

Although there are overlapping procedures between some of the physician practice groups, the practice groups do not compete meaningfully with each other. Further, the safeguards built into the proposal ensure that it is unlikely to increase the availability of fee and cost information among competing providers and therefore is unlikely to facilitate collusion. For example, third-party payers can contract directly with the practice groups if they prefer, and maintain confidentiality of fee information received from each practice group.

Moreover, there appears to be a procompetitive justification for the proposal. Each of the nineteen practice groups separately negotiates and contracts with third-party payers. This system has become burdensome and unwieldy because it results in nineteen different negotiations and contracts. Changing the method of negotiation is expected to lower the costs associated with contracting by expediting negotiations and facilitating the bargaining process.

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Under the Department's Business Review Procedure, an organization may submit a proposed action to the Antitrust Division and receive a statement as to whether the Division will challenge the action under the antitrust laws.

A file containing the business review request and the Department's response may be examined in the Legal Procedure Unit of the Antitrust Division, Room 3233, Department of Justice, Washington, D.C. 20530. After a 30-day waiting period, the documents supporting the business review will be added to the file.

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